

106TH CONGRESS
1ST SESSION

H. R. 2222

To establish fair market value pricing of Federal natural assets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 1999

Mr. GEORGE MILLER of California (for himself, Mr. MCGOVERN, Ms. PELOSI, Mr. HINCHEY, Mrs. TAUSCHER, Mr. MEEHAN, Mr. TIERNEY, Mr. KENNEDY of Rhode Island, Mr. BROWN of Ohio, Ms. DELAURO, Mr. STARK, Ms. RIVERS, Mr. MOORE, Mr. BONIOR, Mr. LUTHER, Mr. GUTIERREZ, Ms. SCHAKOWSKY, Mr. VENTO, Ms. SLAUGHTER, and Ms. ESHOO) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committees on Agriculture, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish fair market value pricing of Federal natural assets, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Public Resources Debt Reduction Act of 1999”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Fair market value for resource disposal.

Sec. 102. Fees from program beneficiaries.

Sec. 103. Revenues from sale, lease, and transfer of assets.

TITLE II—HARDROCK MINING ROYALTIES

Sec. 201. Royalty.

Sec. 202. Abandoned Minerals Mine Reclamation Fund.

Sec. 203. Limitation on patent issuance.

Sec. 204. Mining claim maintenance requirements.

Sec. 205. Definitions.

TITLE III—USE OR DISPOSAL OF FEDERAL NATURAL RESOURCES

Sec. 301. Annual domestic livestock grazing fee.

Sec. 302. Elimination of below-cost sales of timber from national forest system lands.

Sec. 303. Timberland suitability.

Sec. 304. Cost of water used to produce crops on production flexibility contract acreage.

Sec. 305. Reduction in maximum amount of payments under agricultural assistance programs to reflect receipt of Federal irrigation water.

Sec. 306. Off budget expenditures.

Sec. 307. Deposit of Taylor Grazing Act receipts in Treasury.

Sec. 308. Repeal of livestock feed assistance program.

Sec. 309. Right-of-way permits.

Sec. 310. Oil and gas rentals.

Sec. 311. Improvement of minerals management service royalty collection.

1 **TITLE I—GENERAL PROVISIONS**

2 **SEC. 101. FAIR MARKET VALUE FOR RESOURCE DISPOSAL.**

3 (a) IN GENERAL.—Notwithstanding any other provi-
 4 sion of law, no timber, minerals, forage, or other natural
 5 resource owned by the United States, no Federally owned
 6 water, and no hydroelectric energy generated at a Federal
 7 facility may be sold, leased, or otherwise disposed of by
 8 any department, agency, or instrumentality of the United
 9 States for an amount less than fair market value, as deter-
 10 mined by such department, agency, or instrumentality.

11 (b) EXISTING CONTRACTS, LEASES, ETC.—

1 (1) EXISTING ARRANGEMENTS.—The provisions
2 of subsection (a) shall not apply to any existing con-
3 tract, lease, or other binding arrangement entered
4 into before the date of the enactment of this Act un-
5 less such contract, lease or other arrangement is re-
6 newed or extended after such date of enactment.

7 (2) ARRANGEMENTS ENTERED INTO IN 5-YEAR
8 PERIOD.—The provisions of subsection (a) shall take
9 effect on the date 5 years after the date of enact-
10 ment of this Act in the case of any contract, lease,
11 or other binding arrangement entered into or re-
12 newed or extended after such date but before the
13 date 5 years after such date.

14 (3) ARRANGEMENTS ENTERED INTO AFTER 5
15 YEARS.—The provisions of subsection (a) shall apply
16 immediately to all contracts, leases, or other binding
17 arrangements entered into or renewed or extended
18 after the date 5 years after the enactment of this
19 Act.

20 (c) WAIVER.—The President may waive the require-
21 ments of subsection (a) whenever the President deter-
22 mines that such waiver is in the national interest. The
23 President shall submit a notice to Congress containing an
24 explanation of the reasons for any such determination
25 within 60 days after the date of the determination.

1 **SEC. 102. FEES FROM PROGRAM BENEFICIARIES.**

2 (a) GENERAL AUTHORITY.—The Secretary of the In-
 3 terior and the Secretary of Agriculture are each author-
 4 ized to establish and collect from persons subject to pro-
 5 grams administered by each such Secretary such user fees
 6 as may be necessary to reimburse the United States for
 7 the expenses incurred in administering such programs.
 8 The aggregate amount of fees that may be assessed and
 9 collected under this section by each such Secretary in any
 10 fiscal year from persons subject to any such program shall
 11 not exceed the aggregate amount of expenses incurred in
 12 administering such program in such fiscal year.

13 (b) EFFECTIVE DATE; OIL AND GAS LEASE TRANS-
 14 FERS.—The Secretary of the Interior and the Secretary
 15 of Agriculture may, by rule, establish the applicable effec-
 16 tive date of any fee to be imposed under this section, ex-
 17 cept that fees shall be established and collected under this
 18 section from each person receiving a transfer of a Federal
 19 onshore oil and gas lease after the date of the enactment
 20 of this section.

21 **SEC. 103. REVENUES FROM SALE, LEASE, AND TRANSFER**
 22 **OF ASSETS.**

23 (a) IN GENERAL.—Section 1105(a) of chapter 11 of
 24 title 31, United States Code, is amended by adding at the
 25 end the following new paragraph:

26 “(31) a separate statement of—

1 “(A) projected revenues during the fiscal
2 year for which the budget is submitted from the
3 anticipated sale, lease, or transfer of any phys-
4 ical asset; and

5 “(B) the estimated price at which this
6 asset or a comparable asset would be sold in an
7 arms length transaction in the private sector;
8 asset by asset and aggregated by major functional
9 category.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall become effective for fiscal year 2000
12 and shall be fully reflected in the fiscal year 2001 budget
13 submitted by the President in February 2000 as required
14 by section 1105(a) of title 31, United States Code.

15 **TITLE II—HARDROCK MINING** 16 **ROYALTIES.**

17 **SEC. 201. ROYALTY.**

18 (a) RESERVATION OF ROYALTY.—Each person pro-
19 ducing locatable minerals (including associated minerals)
20 from any mining claim located under the general mining
21 laws, or mineral concentrates derived from locatable min-
22 erals produced from any mining claim located under the
23 general mining laws, as the case may be, shall pay a roy-
24 alty of 5 percent of the net smelter return from the pro-

1 duction of such locatable minerals or concentrates, as the
2 case may be.

3 (b) ROYALTY PAYMENTS.—Each person responsible
4 for making royalty payments under this section shall make
5 such payments to the Secretary not later than 30 days
6 after the end of the calendar month in which the mineral
7 or mineral concentrates are produced and first placed in
8 marketable condition, consistent with prevailing practices
9 in the industry.

10 (c) REPORTING REQUIREMENTS.—All persons hold-
11 ing mining claims located under the general mining laws
12 shall provide to the Secretary such information as deter-
13 mined necessary by the Secretary to ensure compliance
14 with this section, including, but not limited to, quarterly
15 reports, records, documents, and other data. Such reports
16 may also include, but not be limited to, pertinent technical
17 and financial data relating to the quantity, quality, and
18 amount of all minerals extracted from the mining claim.

19 (d) AUDITS.—The Secretary is authorized to conduct
20 such audits of all persons holding mining claims located
21 under the general mining laws as he deems necessary for
22 the purposes of ensuring compliance with the require-
23 ments of this section.

1 (e) DISPOSITION OF RECEIPTS.—All receipts from
2 royalties collected pursuant to this section shall be depos-
3 ited into the Fund established under section 3.

4 (f) COMPLIANCE.—Any person holding mining claims
5 located under the general mining laws who knowingly or
6 willfully prepares, maintains, or submits false, inaccurate,
7 or misleading information required by this section, or fails
8 or refuses to submit such information, shall be subject to
9 a civil penalty of not more than \$10,000 imposed by the
10 Secretary.

11 (g) EFFECTIVE DATE.—This section shall take effect
12 with respect to minerals produced from a mining claim
13 in calendar months beginning after the enactment of this
14 Act.

15 **SEC. 202. ABANDONED MINERALS MINE RECLAMATION**
16 **FUND.**

17 (a) ESTABLISHMENT.—(1) There is established on
18 the books of the Treasury of the United States a trust
19 fund to be known as the Abandoned Minerals Mine Rec-
20 lamation Fund (hereinafter referred to as the Fund). The
21 Fund shall be administered by the Secretary.

22 (2) The Secretary shall notify the Secretary of the
23 Treasury as to what portion of the Fund is not, in his
24 judgment, required to meet current withdrawals. The Sec-
25 retary of the Treasury shall invest such portion of the

1 Fund in public debt securities with maturities suitable for
2 the needs of such Fund and bearing interest at rates de-
3 termined by the Secretary of the Treasury, taking into
4 consideration current market yields on outstanding mar-
5 ketplace obligations of the United States of comparable
6 maturities. The income on such investments shall be cred-
7 ited to, and from a part of, the Fund.

8 (b) AMOUNTS.—The following amounts shall be cred-
9 ited to the Fund for the purposes of this Act:

10 (1) All moneys received from royalties under
11 section 1 of this Act and the mining claim mainte-
12 nance fee under section 4 of this Act.

13 (2) All donations by persons, corporations, as-
14 sociations, and foundations for the purposes of this
15 title.

16 (c) USE AND OBJECTIVES OF THE FUND.— The Sec-
17 retary is, subject to appropriations, authorized to use
18 moneys in the Fund for the reclamation and restoration
19 of land and water resources adversely affected by past
20 mineral (other than coal and fluid minerals) and mineral
21 material mining, including but not limited to, any of the
22 following:

23 (1) Reclamation and restoration of abandoned
24 surface mined areas.

1 (2) Reclamation and restoration of abandoned
2 milling and processing areas.

3 (3) Sealing, filling, and grading abandoned deep
4 mine entries.

5 (4) Planting of land adversely affected by past
6 mining to prevent erosion and sedimentation.

7 (5) Prevention, abatement, treatment and con-
8 trol of water pollution created by abandoned mine
9 drainage.

10 (6) Control of surface subsidence due to aban-
11 doned deep mines.

12 (7) Such expenses as may be necessary to ac-
13 complish the purposes of this section.

14 (d) ELIGIBLE AREAS.—(1) Land and waters eligible
15 for reclamation expenditures under this section shall be
16 those within the boundaries of States that have lands sub-
17 ject to the general mining laws—

18 (A) which were mined or processed for minerals
19 and mineral materials or which were affected by
20 such mining or processing, and abandoned or left in
21 an inadequate reclamation status prior to the date
22 of enactment of this Act;

23 (B) for which the Secretary makes a determina-
24 tion that there is no continuing reclamation respon-
25 sibility under State or Federal laws; and

1 (C) for which it can be established that such
2 lands do not contain minerals which could economi-
3 cally be extracted through the reprocessing or re-
4 mining of such lands.

5 (2) Notwithstanding paragraph (1), sites and areas
6 designated for remedial action pursuant to the Uranium
7 Mill Tailings Radiation Control Act of 1978 (42 U.S.C.
8 7901 and following) or which have been listed for remedial
9 action pursuant to the Comprehensive Environmental Re-
10 sponse Compensation and Liability Act of 1980 (42
11 U.S.C. 9601 and following) shall not be eligible for ex-
12 penditures from the Fund under this section.

13 (e) FUND EXPENDITURES.—Moneys available from
14 the Fund may be expended directly by the Director, Bu-
15 reau of Land Management. The Director may also make
16 such money available through grants made to the Chief
17 of the United States Forest Service, and the Director of
18 the National Park Service.

19 (f) AUTHORIZATION OF APPROPRIATIONS.—Amounts
20 credited to the Fund are authorized to be appropriated
21 for the purpose of this title without fiscal year limitation.

22 **SEC. 203. LIMITATION ON PATENT ISSUANCE.**

23 No patent shall be issued by the United States for
24 any mining or mill site claim located under the general
25 mining laws unless the Secretary determines that, for the

1 claim concerned a patent application was filed with the
2 Secretary on or before September 30, 1994, and all re-
3 quirements established under sections 2325 and 2326 of
4 the Revised Statutes (30 U.S.C. 29 and 30) for vein or
5 lode claims and sections 2329, 2330, 2331, and 2333 of
6 the Revised Statutes (30 U.S.C. 35, 36 and 37) for placer
7 claims, and section 2337 of the Revised Statutes (30
8 U.S.C. 42) for mill site claims, as the case may be, were
9 fully complied with by the applicant by that date.

10 **SEC. 204. MINING CLAIM MAINTENANCE REQUIREMENTS.**

11 (a) IN GENERAL.—(1) Effective October 1, 1999, the
12 holder of each mining claim located under the general min-
13 ing laws prior to the date of enactment shall pay to the
14 Secretary an annual claim maintenance fee of \$100 per
15 claim per calendar year.

16 (2) The holder of each mining claim located under
17 the general mining laws subsequent to the date of enact-
18 ment shall pay to the Secretary an annual claim mainte-
19 nance fee of \$125 per claim per calendar year.

20 (b) PURCHASING POWER ADJUSTMENT.—The Sec-
21 retary shall adjust the amount of the claim maintenance
22 fee payable pursuant to subsection (a) for changes in the
23 purchasing power of the dollar after the calendar year
24 1993, employing the Consumer Price Index for all urban
25 consumers published by the Department of Labor as the

1 basis for adjustment, and rounding according to the ad-
2 justment process of conditions of the Federal Civil Pen-
3 alties Inflation Adjustment Act of 1990.

4 (c) TIME OF PAYMENT.—Each claim holder shall pay
5 the claim maintenance fee payable under subsection (a)
6 for any year on or before August 31 of each year, except
7 that for the initial calendar year in which the location is
8 made, the initial claim maintenance fee shall be paid at
9 the time the location notice is recorded with the Bureau
10 of Land Management.

11 (d) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—
12 The section shall not apply to any oil shale claims for
13 which a fee is required to be paid under section 2511(e)(2)
14 of the Energy Policy Act of 1992 (30 U.S.C. 242(e)(2)).

15 (e) CLAIM MAINTENANCE FEES PAYABLE UNDER 1993 ACT.—The claim maintenance fees payable under
16 this section for any period with respect to any claim shall
17 be reduced by the amount of the claim maintenance fees
18 paid under section 10101 of the Omnibus Budget Rec-
19 onciliation Act of 1993 with respect to that claim and with
20 respect to the same period.

21 (f) WAIVER.—(1) The claim maintenance fee re-
22 quired under this section may be waived for a claim holder
23 who certifies in writing to the Secretary that on the date
24
25

1 the payment was due, the claim holder and all related par-
2 ties held not more than 10 mining claims on land open
3 to location. Such certification shall be made on or before
4 the date on which payment is due.

5 (2) For purposes of this subsection, with respect to
6 any claim holder, the term “related party” means each
7 of the following:

8 (A) The spouse and dependent children (as de-
9 fined in section 152 of the Internal Revenue Code of
10 1986), of the claim holder.

11 (B) Any affiliate of the claim holder.

12 (g) CO-OWNERSHIP.—Upon the failure of any one or
13 more of several co-owners to contribute such co-owner or
14 owners portion of the fee under this section, any co-owner
15 who has paid such fee may, after the payment due date,
16 give the delinquent co-owner or owners notice of such fail-
17 ure in writing (or by publication in the newspaper nearest
18 the claim for at least once a week for at least 90 days).
19 If at the expiration of 90 days after such notice in writing
20 or by publication, any delinquent co-owner fails or refused
21 to contribute his portion, his interest, in the claim shall
22 become the property of the co-owners who have paid the
23 required fee.

24 **SEC. 205. DEFINITIONS.**

25 As used in this title:

1 (1) The term “affiliate” means, with respect to
2 any person, each of the following:

3 (A) Any partner of such person.

4 (B) Any person owning at least 10 percent
5 of the voting shares of such person.

6 (C) Any person who controls, is controlled
7 by, or is under common control with such per-
8 son.

9 (2) The term “locatable minerals” means min-
10 erals not subject to disposition under any of the fol-
11 lowing:

12 (A) The Mineral Leasing Act (30 U.S.C.
13 181 and following);

14 (B) The Geothermal Steam Act of 1970
15 (30 U.S.C. 100 and following);

16 (C) The Act of July 31, 1947, commonly
17 known as the Materials Act of 1947 (30 U.S.C.
18 601 and following); or

19 (D) the Mineral Leasing for Acquired
20 Lands Act (30 U.S.C. 351 and following).

21 (3) The term “net smelter return” has the
22 same meaning provided in section 613 of the Inter-
23 nal Revenue Code of 1986 (26 U.S.C. 613) for
24 “gross income from mining”.

1 (4) The term “Secretary” means the Secretary
2 of the Interior.

3 (5) The term “general mining laws” means
4 those Acts which generally comprise chapters 2,
5 12A, and 16, and sections 161 and 162 of title 30,
6 United States Code.

7 **TITLE III—USE OR DISPOSAL OF**
8 **FEDERAL NATURAL RESOURCES**

9 **SEC. 301. ANNUAL DOMESTIC LIVESTOCK GRAZING FEE.**

10 The Federal Land Policy and Management Act of
11 1976 is amended by inserting after section 401 (43 U.S.C.
12 1751) the following new section:

13 **“SEC. 401A. ESTABLISHMENT OF FAIR MARKET VALUE**
14 **GRAZING FEES.**

15 “(a) ESTABLISHMENT OF ANNUAL DOMESTIC LIVE-
16 STOCK GRAZING FEE.—(1) Notwithstanding any other
17 provision of law, the Secretary of Agriculture, with respect
18 to National Forest System lands in the 16 contiguous
19 Western States (except National Grasslands) administered
20 by the Forest Service where domestic livestock grazing is
21 permitted under applicable law, shall establish an annual
22 domestic livestock grazing fee equal to fair market value.

23 “(2) Notwithstanding any other provision of law, the
24 Secretary of the Interior, with respect to public domain
25 lands administered by the Bureau of Land Management

1 where domestic livestock grazing is permitted under appli-
 2 cable law, shall establish an annual domestic livestock
 3 grazing fee equal to fair market value.

4 “(b) CALCULATION OF FAIR MARKET VALUE.—(1)
 5 For purposes of determining the annual domestic livestock
 6 grazing fee under this section, the Secretary concerned
 7 shall calculate fair market value using the following for-
 8 mula:

$$\text{Fair Market Value} = \frac{\text{Appraised Base Value} \times \text{Forage Value Index}}{100}$$

9 “(2) For purposes of the formula in paragraph (1):
 10 “(A) The term ‘Forage Value Index’ means the
 11 Forage Value Index (FVI) computed annually by the
 12 Economic Research Service, United States Depart-
 13 ment of Agriculture, and set with the 1997 FVI
 14 equal to 100; and

15 “(B) The term ‘Appraised Base Value’ means
 16 the 1983 Appraisal Value conclusions for mature
 17 cattle and horses (expressed in dollars per head or
 18 per month), as determined in the 1986 report pre-
 19 pared jointly by the Secretary of Agriculture and the
 20 Secretary of the Interior entitled ‘Grazing Fee Re-
 21 view and Evaluation’, dated February 1986, on a
 22 west-wide basis using the lowest appraised value of

1 the pricing areas adjusted for advanced payment
2 and indexed to 1997.

3 “(c) LIMITATION ON FLUCTUATIONS OF FEES.—
4 Notwithstanding the amount calculated under subsection
5 (b) for a year, the domestic livestock grazing fee charged
6 for any given year shall not increase nor decrease by more
7 than 33.3 percent from the domestic livestock grazing fee
8 for the previous year.

9 “(d) EFFECT ON EXECUTIVE ORDER.—Executive
10 Order No. 12548, dated February 14, 1986 (51 Fed. Reg.
11 5985), shall not apply to grazing fees established pursuant
12 to this section.

13 “(e) EFFECT ON GRAZING ADVISORY BOARDS.—The
14 grazing advisory boards established pursuant to Secre-
15 tarial action, notice of which was published in the Federal
16 Register on May 14, 1986 (51 Fed. Reg. 17874), are abol-
17 ished, effective as of the date of the enactment of this sec-
18 tion, and the advisory functions exercised by such boards
19 shall be exercised only by the appropriate councils estab-
20 lished under section 309 of this Act.

21 “(f) USE OF FEES AND RANGE IMPROVEMENT
22 FUNDS.—Funds appropriated pursuant to section 5 of the
23 Public Rangelands Improvement Act of 1978 (43 U.S.C.
24 1904) or any other provision of law related to disposition
25 of the Federal share of receipts from fees for grazing on

1 public domain lands or National Forest lands in the 16
 2 contiguous western States shall be used for restoration
 3 and enhancement of fish and wildlife habitat, for restora-
 4 tion and improved management of riparian areas, and for
 5 implementation and enforcement of applicable land man-
 6 agement plans, allotment plans, and regulations regarding
 7 the use of such lands for domestic livestock grazing. Such
 8 funds shall be distributed as the Secretary concerned con-
 9 siders advisable after consultation and coordination with
 10 the advisory councils established pursuant to section 309
 11 of this Act and other interested parties.

12 “(g) COMMENCEMENT DATE FOR FEES.—The first
 13 annual domestic livestock grazing fee required by this sec-
 14 tion shall apply with respect to the grazing season com-
 15 mencing on March 1, 2000.

16 **SEC. 302. ELIMINATION OF BELOW-COST SALES OF TIMBER**
 17 **FROM NATIONAL FOREST SYSTEM LANDS.**

18 (a) IN GENERAL.—The National Forest Management
 19 Act of 1976 is amended by inserting after section 14 (16
 20 U.S.C. 472a) the following new section:

21 **“SEC. 14A. ELIMINATION OF BELOW-COST TIMBER SALES**
 22 **FROM NATIONAL FOREST SYSTEM LANDS.**

23 “(a) REQUIREMENT THAT SALE REVENUES EXCEED
 24 COSTS.—On and after October 1, 2004, in appraising tim-
 25 ber and setting a minimum bid for trees, portions of trees,

1 or forest products located on National Forest System
2 lands proposed for sale under section 14 or any other pro-
3 vision of law, the Secretary of Agriculture shall ensure
4 that the estimated cash returns to the United States
5 Treasury from each sale exceed the estimated costs to be
6 incurred by the Federal Government in the preparation
7 of the sale or as a result of the sale.

8 “(b) COSTS TO BE CONSIDERED.—For purposes of
9 estimating under this section the costs to be incurred by
10 the Federal Government from each timber sale, the Sec-
11 retary shall assign to the sale the following costs:

12 “(1) The actual appropriated expenses for sale
13 preparation and harvest administration incurred or
14 to be incurred by the Federal Government from the
15 sale and the payments to counties to be made as a
16 result of the sale.

17 “(2) A portion of the annual timber resource
18 planning costs, silvicultural examination costs, other
19 resource support costs, road design and construction
20 costs, road maintenance costs, transportation plan-
21 ning costs, appropriated reforestation costs, timber
22 stand improvement costs, forest genetics costs, gen-
23 eral administrative costs (including administrative
24 costs of the national and regional offices of the For-
25 est Service), and facilities construction costs of the

1 Federal Government directly or indirectly related to
2 the timber harvest program conducted on National
3 Forest System lands.

4 “(c) METHOD OF ALLOCATING COSTS.—The Sec-
5 retary shall allocate the costs referred to in subsection
6 (b)(2) to each unit of the National Forest System, and
7 each proposed timber sale in such unit, on the basis of
8 harvest volume.

9 “(d) TRANSITIONAL REQUIREMENTS.—To ensure the
10 elimination of all below-cost timber sales by the date speci-
11 fied in subsection (a), the Secretary shall progressively re-
12 duce the number and size of below-cost timber sales on
13 National Forest System lands as follows:

14 “(1) In fiscal years 2000 and 2001, the quan-
15 tity of timber sold in below-cost timber sales on Na-
16 tional Forest System lands shall not exceed 75 per-
17 cent of the quantity of timber sold in such sales in
18 the preceding fiscal year.

19 “(2) In fiscal year 2002, the quantity of timber
20 sold in below-cost timber sales on National Forest
21 System lands shall not exceed 65 percent of the
22 quantity of timber sold in such sales in fiscal year
23 2000.

24 “(3) In fiscal year 2003, the quantity of timber
25 sold in below-cost timber sales on National Forest

1 System lands shall not exceed 50 percent of the
2 quantity of timber sold in such sales in the fiscal
3 year 2002.

4 “(e) BELOW-COST TIMBER SALE.—For purposes of
5 this section, the term ‘below-cost timber sale’ means a sale
6 of timber in which the costs to be incurred by the Federal
7 Government exceed the cash returns to the United States
8 Treasury.”.

9 (b) FINDINGS.—Section 2 of the Forest and Range-
10 land Renewable Resources Planning Act of 1974 (16
11 U.S.C. 1600) is amended—

12 (1) by striking “and” at the end of paragraph
13 (6);

14 (2) by striking the period at the end of para-
15 graph (7) and inserting “; and”; and

16 (3) by adding at the end the following new
17 paragraph:

18 “(8) the practice of selling timber from Na-
19 tional Forest System lands for less than the cost to
20 the Federal Government of growing the timber and
21 preparing the timber for sale is not in the best inter-
22 ests of the United States, and such below-cost sales
23 should be eliminated in an orderly manner to achieve
24 a more economically and environmentally sound tim-
25 ber program for the National Forest System.”.

1 **SEC. 303. TIMBERLAND SUITABILITY.**

2 Subsection (k) of section 6 of the Forest and Range-
3 land Renewable Resources Planning Act of 1974 (16
4 U.S.C. 1604) is amended to read as follows:

5 “(k) DETERMINATION OF SUITABILITY OF LANDS
6 FOR TIMBER PRODUCTION.—

7 “(1) DETERMINATION REQUIRED.—In revising
8 land management plans developed pursuant to this
9 section, the Secretary shall identify lands within the
10 management area that are not suited for timber pro-
11 duction based on physical, economic, or other rel-
12 evant factors. The Secretary shall review the identi-
13 fications made under this paragraph during each re-
14 vision of the forest plan.

15 “(2) EVIDENCE OF ECONOMIC
16 UNSUITABILITY.—The Secretary shall identify lands
17 as economically unsuitable for timber production
18 under paragraph (1) if—

19 “(A) the expected cash returns to the
20 United States Treasury that would result from
21 the sale of standing timber on the lands do not
22 exceed the expected costs that would be in-
23 curred by the Federal Government in prepara-
24 tion or as a result of such sales; or

25 “(B) the expected cash returns to the
26 United States Treasury that would result from

1 the sale of subsequent timber stands on the
2 lands do not exceed the expected costs that
3 would be incurred by the Federal Government
4 in preparation or as a result of such sales.

5 “(3) COSTS TO BE CONSIDERED.—For purposes
6 of estimating under paragraph (2) the costs to be in-
7 curred by the Federal Government from timber sales
8 conducted on the lands being reviewed, the Secretary
9 shall assign to sales on such lands the following
10 costs:

11 “(A) The appropriated expenses for sale
12 preparation and harvest administration that
13 would be incurred by the Federal Government
14 from such sales and the payments to counties
15 that would be made as a result of such sales.

16 “(B) A portion of the annual timber re-
17 source planning costs, silvicultural examination
18 costs, other resource support costs, road design
19 and construction costs, road maintenance costs,
20 transportation planning costs, appropriated re-
21 forestation costs, timber stand improvement
22 costs, forest genetics costs, general administra-
23 tive costs (including administrative costs of the
24 national and regional offices of the Forest Serv-
25 ice), and facilities construction costs of the Fed-

1 eral Government directly or indirectly related to
2 the timber harvest program conducted on Na-
3 tional Forest System lands.

4 “(4) METHOD OF ALLOCATING COSTS.—The
5 Secretary shall allocate the costs referred to in para-
6 graph (3)(B) to each unit of the National Forest
7 System on the basis of harvest volume.

8 “(5) PROHIBITION ON TIMBER HARVESTS ON
9 UNSUITABLE LANDS.—In the case of lands identified
10 under paragraph (1) as unsuitable for timber pro-
11 duction, no timber harvesting shall occur on such
12 lands for a period of 10 years or the life of the plan,
13 whichever is greater.

14 “(6) DEFINITIONS.—For purposes of this sub-
15 section:

16 “(A) The term ‘standing timber’ means an
17 existing stand of timber that has not been har-
18 vested.

19 “(B) The term ‘subsequent timber stand’
20 means a regenerated stand of timber produced
21 on land from which standing timber has been
22 harvested.”.

1 **SEC. 304. COST OF WATER USED TO PRODUCE CROPS ON**
2 **PRODUCTION FLEXIBILITY CONTRACT ACRE-**
3 **AGE.**

4 Section 9 of the Act of August 4, 1939 (commonly
5 known as the Reclamation Project Act of 1939; 43 U.S.C.
6 485h) is amended by inserting at the end thereof the fol-
7 lowing new subsection:

8 “(g)(1) Any contract entered into under authority of
9 this section or any other provision of Federal reclamation
10 law shall require that the organization agree by contract
11 with the Secretary to pay full cost for the delivery of water
12 used in the production of any contract commodity on acre-
13 age subject to a production flexibility contract entered into
14 under section 111 of the Agricultural Market Transition
15 Act (7 U.S.C. 7211).

16 “(2) The Secretary shall announce the amount of the
17 full cost payment for the succeeding year on or before July
18 1 of each year.

19 “(3) As used in this subsection:

20 “(A) The term ‘full cost’ has the meaning given
21 such term in section 202(3) of the Reclamation Re-
22 form Act of 1982 (43 U.S.C. 390bb(3)).

23 “(B) The term ‘contract commodity’ has the
24 meaning given such term in section 102(5) of the
25 Agricultural Market Transition Act (7 U.S.C.
26 7202(5)).

1 “(4) Paragraph (1) shall apply to any contract en-
 2 tered into or amended after the date of the enactment of
 3 this subsection.”.

4 **SEC. 305. REDUCTION IN MAXIMUM AMOUNT OF PAYMENTS**
 5 **UNDER AGRICULTURAL ASSISTANCE PRO-**
 6 **GRAMS TO REFLECT RECEIPT OF FEDERAL**
 7 **IRRIGATION WATER.**

8 (a) PRICE SUPPORT PROGRAMS.—Title X of the
 9 Food Security Act of 1985 is amended—

10 (1) by redesignating sections 1001D (7 U.S.C.
 11 1308–4) and 1001E (7 U.S.C. 1308–5) as sections
 12 1001E and 1001F, respectively; and

13 (2) by inserting after section 1001C (7 U.S.C.
 14 1308–3) the following new section:

15 **“SEC. 1001D. REDUCTION OF PAYMENT LIMITATIONS TO**
 16 **REFLECT RECEIPT OF FEDERAL IRRIGATION**
 17 **WATER.**

18 “(a) REDUCTION OF PAYMENT LIMITATIONS RE-
 19 QUIRED.—If a person subject to section 1001 receives
 20 Federal irrigation water for agricultural purposes from the
 21 operation of a Federal reclamation project, the payment
 22 limitations specified in paragraphs (1) and (2) of such sec-
 23 tion and applicable to such person shall be reduced for
 24 the year in which such person receives irrigation water.
 25 The amount of the reduction shall be equal to the total

1 value during that year of the subsidy portion of the con-
 2 tract with such person for the delivery of the irrigation
 3 water.

4 “(b) DETERMINATION OF SUBSIDY PORTION OF
 5 WATER CONTRACT.—The subsidy portion of an irrigation
 6 water delivery contract is equal to the amount by which
 7 full cost for the delivery of the irrigation water exceeds
 8 the actual contract price for the delivery of the water.

9 “(c) DEFINITIONS.—For purposes of this section, the
 10 terms ‘contract’, ‘full cost’, ‘irrigation water’, and ‘project’
 11 have the meanings given such terms in section 202 of the
 12 Reclamation Reform Act of 1982 (43 U.S.C. 390bb).”.

13 (b) NONINSURED CROP DISASTER ASSISTANCE.—
 14 Section 196(i) of the Federal Agriculture Improvement
 15 and Reform Act of 1996 (7 U.S.C. 7333(i)) is amended—

16 (1) by redesignating paragraph (5) as para-
 17 graph (6); and

18 (2) by inserting after paragraph (4) the fol-
 19 lowing new paragraph:

20 “(5) EFFECT OF RECEIPT OF IRRIGATION
 21 WATER.—

22 “(A) REDUCTION OF PAYMENT LIMITA-
 23 TION.—If a person who receives payments
 24 under this section also receives, during the
 25 same year, Federal irrigation water for agricul-

tural purposes from the operation of a Federal reclamation project, the payment limitation specified in paragraph (2) for such person shall be reduced for that year. The amount of the reduction shall be equal to the total value during that year of the subsidy portion of the contract with such person for the delivery of the irrigation water.

“(B) DETERMINATION OF SUBSIDY PORTION OF WATER CONTRACT.—The subsidy portion of an irrigation water delivery contract is equal to the amount by which full cost for the delivery of the irrigation water exceeds the actual contract price for the delivery of the water.

“(C) DEFINITIONS.—For purposes of this paragraph, the terms ‘contract’, ‘full cost’, ‘irrigation water’, and ‘project’ have the meanings given such terms in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb).”.

(c) CONFORMING AMENDMENTS.—Section 1001(5)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(5)(A)) is amended by striking “through 1001C” and inserting “through 1001D”.

1 **SEC. 306. OFF BUDGET EXPENDITURES.**

2 (a) **KNUTSON-VANDENBERG FUND.**—Section 3 of
3 the Act of June 9, 1930 (commonly known as the
4 Knutson-Vandenberg Act; 16 U.S.C. 576b), is amended
5 by striking “and shall constitute a special fund, which is
6 hereby appropriated and made available until expended,”
7 in the second sentence and inserting “and are authorized
8 to be appropriated”.

9 (b) **DEPOSITS FROM BRUSH DISPOSAL.**—The para-
10 graph relating to deposits from brush disposal under the
11 heading “FOREST SERVICE” in the Act of August 11, 1916
12 (39 Stat. 462; 16 U.S.C. 490), is amended by striking
13 “and constitute a special fund, which is hereby appro-
14 priated and shall remain available until expended” and in-
15 serting “and are authorized to be appropriated for the
16 purpose of disposing of such brush and other debris”.

17 (c) **NATIONAL FORESTS ROADS AND TRAILS.**—Sec-
18 tion 7 of Public Law 88–657 (commonly known as the
19 Forest Roads and Trails Act; 16 U.S.C. 538) is amended
20 by striking “may be placed in a fund to be available” and
21 inserting “are authorized to be appropriated”.

22 (d) **TIMBER SALVAGE SALE FUND.**—Section 303(d)
23 of Public Law 96–451 (16 U.S.C. 1606a) is amended by
24 striking “The Secretary of Agriculture” and inserting “In
25 such amounts as are provided in advance in appropriations
26 Acts, the Secretary of Agriculture”.

1 **SEC. 307. DEPOSIT OF TAYLOR GRAZING ACT RECEIPTS IN**
2 **TREASURY.**

3 Section 10 of the Act of June 28, 1934 (commonly
4 known as the Taylor Grazing Act; 43 U.S.C. 315i), is
5 amended by striking all after “miscellaneous receipts” and
6 inserting a period.

7 **SEC. 308. REPEAL OF LIVESTOCK FEED ASSISTANCE PRO-**
8 **GRAM.**

9 The Emergency Livestock Feed Assistance Act of
10 1988 (title VI of the Agricultural Act of 1949; 7 U.S.C.
11 1471–1471j) is repealed.

12 **SEC. 309. RIGHT-OF-WAY PERMITS.**

13 (a) IN GENERAL.—No permit, lease, or authorization
14 for the use of any area of the public lands or National
15 Forests for rights-of-way (including rights-of-way for
16 power lines, oil and gas pipelines, water conveyances, and
17 other utility lines) shall remain in force and effect after
18 October 1, 1999, unless, by such date, and by October
19 1 of each year thereafter, the holder of such permit, lease,
20 or authorization pays to the Secretary of the Interior or
21 the Secretary of Agriculture, as appropriate, an amount
22 equal to the fair market value, as determined by such Sec-
23 retary, of the right to use and occupy such area for such
24 purposes.

25 (b) DEFINITION.—For the purposes of this section,
26 the term “public lands” shall have the same meaning as

1 defined in section 103(e) of the Federal Land Policy Man-
2 agement Act of 1976 (43 U.S.C. 1702(e)).

3 **SEC. 310. OIL AND GAS RENTALS.**

4 The Mineral Leasing Act (30 U.S.C. 181 et seq.) is
5 amended as follows:

6 (1) In section 14 by striking out “a rental of
7 \$1 per acre” and inserting “a rental established by
8 the Secretary of the Interior” and by adding the fol-
9 lowing at the end thereof: “The Secretary shall es-
10 tablish fair market value rental fees under this sec-
11 tion based upon the rental fees which would be
12 charged in arm’s length transactions for comparable
13 leases of oil and gas resources on non-Federal
14 land.”.

15 (2) In section 17(d) by striking out “rental of
16 not less than \$1.50 per acre per year for the first
17 through fifth years of the lease and not less than \$2
18 per acre per year for each year thereafter” and in-
19 serting “rental established by the Secretary of the
20 Interior” and by adding the following at the end
21 thereof: “The Secretary shall establish fair market
22 value rental fees under this section based upon the
23 rental fees which would be charged in arms length
24 transactions for comparable leases of oil and gas re-
25 sources on non-Federal land.”.

1 (3) In section 21(a) by striking out “rental,
2 payable at the beginning of each year, at the rate of
3 50 cents per acre per annum, for the lands included
4 in the lease,” and inserting “rental established by
5 the Secretary of the Interior” and by adding the fol-
6 lowing at the end thereof: “The Secretary shall es-
7 tablish fair market value rental fees under this sec-
8 tion based upon the rental fees which would be
9 charged in arms length transactions for comparable
10 leases on non-Federal land.”.

11 (4) In section 31(e)(2) by striking “rate of not
12 less than \$10 per acre per year, or the inclusion in
13 a reinstated lease issued pursuant to the provisions
14 of section 17(c) of this Act of a requirement that fu-
15 ture rentals shall be at a rate not less than \$5 per
16 acre per year” and inserting “fair market value rate
17 (but not less than \$10 per acre per year)”.

18 (5) In section 31(f)(3) by striking out “of not
19 less than \$5 per acre per year” and inserting “es-
20 tablished by the Secretary at fair market value
21 based upon the rental fees which would be charged
22 in arms length transactions for comparable leases on
23 non-Federal land”.

1 **SEC. 311. IMPROVEMENT OF MINERALS MANAGEMENT**
2 **SERVICE ROYALTY COLLECTION.**

3 The Federal Oil and Gas Royalty Simplification and
4 Fairness Act of 1996 (Public Law No. 104–185; 30
5 U.S.C. 1701 et seq.) is amended by adding the following
6 new subsection after subsection (l):

7 “(m) ASSESSMENT FOR UNDERREPORTING OF ROY-
8 ALTY.—(1) If there is any underreporting of royalty owed
9 on production from any lease for any production month,
10 the Secretary may make an assessment of 20 percent of
11 the amount of that underreporting if any of the following
12 circumstances occurs:

13 “(A) For a Federal lease, the underreporting
14 exceeds 10 percent of the value of production which
15 should have been reported and exceeds \$1,500, or
16 the underreporting exceeds 5 percent of the value of
17 production which should have been reported and ex-
18 ceeds \$15,000.

19 “(B) For an Indian lease, the underreporting
20 exceeds 10 percent of the value of production which
21 should have been reported and exceeds \$125.

22 “(C) For either a Federal or Indian lease, no
23 royalty was paid on production from that lease for
24 the production month immediately preceding the
25 month for which the underreporting was submitted,

1 regardless of the amount of the underreporting or
2 the amount of royalty owed.

3 “(2) For purposes of this subsection, the term
4 ‘underreporting’ means the amount by which the royalty
5 on the value of the production which should have been re-
6 ported exceeds the royalty on the value of the production
7 which was reported.

8 “(3) The Secretary shall not impose the assessment
9 specified in paragraph (1) if the underreporting is cor-
10 rected before the date the person against whom the assess-
11 ment is made receives written notice from the Secretary
12 that an underreporting may have occurred.

13 “(4) The Secretary shall not impose the assessment
14 specified in paragraph (1) with respect to an under-
15 reporting which is corrected in the course of performing
16 an order to correct royalty accounting and recompute and
17 pay royalties due. This exception does not apply to the
18 specific instances of underreporting discovered during
19 audit which formed the basis of the order to recompute
20 and pay.

21 “(5)(A) The Secretary shall waive the portion of an
22 assessment specified in paragraph (1) attributable to that
23 portion of the underreporting for which a person dem-
24 onstrates that—

1 “(i) the person had substantial authority for re-
2 porting royalty on the value of the production on the
3 basis on which it was reported, or

4 “(ii) the person meets any other exception
5 which the Secretary may, by rule, establish.

6 “(B) For purposes of this paragraph, the term ‘sub-
7 stantial authority’ means any of the following:

8 “(i) A controlling judicial or administrative de-
9 cision which has not been reversed, vacated, or over-
10 ruled, or a controlling regulation.

11 “(ii) A body of judicial or administrative deci-
12 sions or regulations which provide a reasoned basis
13 to support the person’s action. Such a reasoned
14 basis must be more than a merely arguable theory
15 which is unlikely to prevail in court upon a complete
16 review of the relevant facts and authorities.

17 “(iii) A legal question of first impression.

18 “(6) Interest shall not accrue on the amount of an
19 assessment under this subsection during the pendency of
20 any administrative appeal of the assessment which may
21 be allowed by rule. No hearing on the record in such ap-
22 peal shall be necessary before an assessment is made. No
23 surety instrument shall be required to secure the amount
24 of the assessment pending administrative appeal.

1 “(7) An assessment under this subsection shall apply
2 only to an underreporting occurring after the date of en-
3 actment of this subsection.

4 “(8) Notwithstanding any provision of section 206 of
5 this Act, all assessments collected under this subsection
6 shall be deposited to the same accounts in the Treasury
7 or paid to the same recipients in the same manner as the
8 royalty with respect to which such assessment is made.

9 “(9) For purposes of this subsection, the definitions
10 in section 2 of this Act shall be deemed to also apply to
11 coal, any other mineral, geothermal steam, or associated
12 geothermal resources.”.

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